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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20

Application Number: 09/083,601

Filing Date: 5/22/98

Appellant(s): Christoph E. Scheurich, et al.

Fred G. Pruner, Jr.
For Appellant

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Technology Center 2600

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed on 1/23/03 as Paper 19.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

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A statement is present identifying that there are no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that claims 19-24 can be grouped together, claims 25-29 can be grouped together, claims 30-34 can be grouped together, and claims 35-38 can be grouped together is agreed with by the Examiner.

(8) *Claims Appealed*

The copy of the appealed claims contained in the appendix to the brief is correct.

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(9) Prior art of record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,037,991

Thro et al.

3/14/2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

I. Claims 19-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thro et al (6,037,991).

Thro et al disclose a computer system, an article comprising a computer medium comprising instructions, a method for communicating, comprising:
a communication link (Fig. 1); a camera (116) to communicate image data to the communication link; and a computer (101) to receive a request for a first pixel resolution; a readable storage medium including instructions (205) that cause a processor to determine whether it is possible to communicate first data of an image having the first pixel resolution at a requested frame rate (Col. 3, lines 66-67 and Col. 4, lines 1-3); and if not possible, adjust the first pixel resolution and communicate second data of the image having the second pixel resolution over the communication link at the requested frame rate (Col. 4, lines 3-67) as specified in claims 19-21,

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23, 25-27, 30-31, 33, 35, and 38. Even though Thro et al do not specifically disclose decreasing resolution, Thro teaches that higher the transmission frame rate, the lower the image quality (resolution) (col. 4, lines 16-20). Therefore, it is considered quite obvious to decrease the pixel resolution, so as to prioritize the transmission frame rate by increasing, in order to transmit more image updates per second.

Regarding claims 24, 29, 34, and 37, Even though Thro et al do not specifically disclose testing for available packet size, it is well known in the art to utilize a certain packet size within a specified bandwidth in order to prevent an overflow.

Regarding claims 22, 28, 32, and 36, Thro et al disclose determining an available/usable bandwidth periodically for transmission (Col. 4, lines 5-23) as specified.

(11) Response to Argument

Appellant's arguments filed on 1/23/03 in the brief of Paper 19 have been fully considered but they are not persuasive. The Appellants present arguments contending the Examiner's rejection of claims 19-38 under 35 U.S.C. 103(a) as being unpatentable over Thro et al as stated in the *Grounds of Rejection*. However, after careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow and submit to the board that the rejection be sustained.

In response to Applicant's argument that the Thro et al reference fails to neither teach nor suggest decreasing a first pixel resolution to a lower pixel resolution over a communication link at a requested frame rate if it is not possible to communicate first data indicative of the image having the first pixel resolution (brief: page 8, lines 13-17).

The Examiner respectfully disagrees. Thro et al clearly discloses that higher the transmission frame rate, the lower the resolution (image quality) per frame (ref: col. 6, lines 32-33). Further, Thro et al discloses adjusting (decreasing) a first pixel resolution to a second (lower) pixel resolution (video signal) over a communication link at a requested frame rate if it is not

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possible to communicate first data indicative of the image having the first pixel resolution (ref: col. 6, lines 34-50). Once again, Thro et al either truncates video signals (resolution) or adjusts (decrease/increase) the video signals at a requested frame rate if it is not possible to communicate the first pixel resolution. Appellants need to understand the correlation between the frame rate vs the resolution, higher the transmission frame rate, the lower the resolution (image quality) per frame. Furthermore, the Appellant's confusion about the previous Examiner's statement "inherently obvious to decrease the pixel resolution ..." (brief: page 8, last paragraph) was an unfortunate choice of words. It now appears that Thro et al indeed discloses all of the recited limitations as discussed above.

Moreover, Thro et al's reference is replete with examples of frame rate vs resolution (ref: col. 7, lines 30-32; lines 55-64; col. 8, lines 64-67; and col. 9, lines 1-6).

The Appellants present another argument of which Thro et al fails to disclose a processor or a computer to decrease a first pixel resolution to a lower pixel resolution over a communication link at a requested frame rate (brief: page 10, the last two lines; page 12, lines 4-6). The Examiner respectively disagrees.

In response, Thro discloses that the present invention (includes all of the recited limitation discussed above) is also applicable to a wireline communication device such as a video phone, personal computer, and also discloses computer program determining a priority between transmission frame rate and resolution frame rate (ref: col. 8, lines 1-9 and lines 55-67; col. 9, lines 1-6), which meets the recited limitation of a processor or a computer to decrease a first pixel resolution to a lower pixel resolution over a communication link at a requested frame rate.

Furthermore, The Appellants' argument regarding recited claim 19 (brief: page 13, lines 1-2) is substantially the same as claim 25. The only difference in claim 19 is adjusting image parameter, whereas claim 25 adjusts the resolution. The claim 19 has broader limitation than the claim 1.

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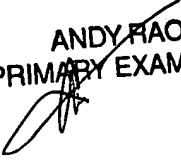
Therefore, since the recited claim 25 limitations have been met as discussed above, the recited claim 19 limitations are automatically met based on the claim 25 rejection. Furthermore, the dependent claim 20 depends from the claim 19, recites "... adjusted image parameter comprises a decreased resolution ..." and dependent claim 21 recites "... transmitting data at the requested frame rate".

For the reasons discussed above, it is believed that the rejection should be sustained.

Respectively Submitted;


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